

PHARMACY EXAMINING BOARD
REGULAR MEETING
OCTOBER 10-11, 2000

MEMBERS PRESENT: John Bohlman, RPH; Sue Sutter, RPH; Charlotte Rasmussen;
Michael Bettiga, RPH; Dan Luce, RPH; Cynthia Benning, RPH

MEMBER EXCUSED: Georgina Forbes

LEGAL COUNSEL: William Black

STAFF PRESENT: Patrick D. Braatz, Tammie Buckingham (10/10), Karen Rude-
Evans (10/11)

GUESTS: Jeff Appel, Knoll Pharmacy; Larry Edwards, DOC

CALL TO ORDER

Chair John Bohlman called the meeting to order at 1:04 p.m.

APPROVAL OF AGENDA

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to approve agenda items A through G. Motion carried unanimously.

REVIEW PHAR 7.01 – CENTRAL FILL

John Bohlman appointed Cynthia Benning and Michael Bettiga to work with William Black to prepare a scope statement for the next meeting.

REVIEW PHAR 7.05 – TRANSFER OF PRESCRIPTION ORDERS

William Black will modify the language for review at the next meeting.

REVIEW 10.03 (15) – IMPRINT ON PRESCRIPTION ORDER BLANKS

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to withdraw the change of the prescription blank rule, and interpret the rule on a case by case basis to allow distribution of forms imprinted with pharmacists or pharmacy names which could serve as certificates of medical necessity for services, devices, or equipment. Motion carried unanimously.

REVIEW 6.06 – MINIMUM EQUIPMENT

Cynthia Benning will give the revisions to William Black and he will revise for the next meeting.

REVIEW PHAR 7.01 – TECH RATIO

MOTION: Dan Luce moved, seconded by Michael Bettiga, to send the tech ratio rule to the clearinghouse. Roll call vote – Charlotte Rasmussen – no, Sue Sutter – yes, Michael Bettiga – yes, Dan Luce – yes, Cynthia Benning – no, John Bohlman – yes. Motion carried.

REVISED RULES ON LICENSING/EXAMINATIONS

MOTION: Dan Luce moved, seconded by Sue Sutter, to send the revised rules on licensing/examinations to the clearinghouse. Roll call vote - Cynthia Benning – no, Dan Luce – yes, Michael Bettiga – yes, Sue Sutter – yes, Charlotte Rasmussen – no, John Bohlman – yes. Motion carried.

STRICT LIABILITY FOR PHARMACIES FOR ACTS OF PHARMACISTS EMPLOYED BY THE PHARMACY

Arthur Thexton addressed the board with several concerns relating to pharmacies being responsible for the acts of their pharmacists and the board did not foresee a problem at the present time.

RECESS TO CLOSED SESSION

The meeting recessed at 3:40 p.m. on October 10, 2000 and will reconvene in the morning at 9:00 am.

CALL TO ORDER

Chair John Bohlman called the meeting to order on October 11, 2000 at 9:02 a.m.

APPROVAL OF AGENDA

Amendments: -Correspondence from Luther Hospital Pharmacy
-Correspondence from Wal-Mart Pharmacy Division
-Informational item regarding a Buprenorphine bill
-Informational item regarding U.S.F.D.A. public hearing on the Prescription Drug Marketing Act 1
-Proposed Stipulation in the matter regarding Douglas K. Stucky, R.Ph.

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to approve the agenda for today's meeting, items H through Y, with the amendments. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 12, 2000

Amendments: -On page 1, under GUESTS, change "Janice Paynter" to "Jamie Paynter".
-On page 2, under DISCUSSION OF STIPULATIONS/STAYS, delete the entire paragraph and replace with, "The Board had a discussion, and wants all future

orders to have a provision that the Board's DOE liaison has the power to revoke a stay if the licensee is non-compliant with their Order."

-On page 4, under REQUEST FROM MEDDATA HEALTHCARE SYSTEMS, INC., CA, change the second sentence to read, "The Board's opinion was that is this system is in compliance with Wisconsin law, it may be used in Wisconsin."

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to approve the Minutes of September 12, 2000 as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF TELEPHONE CONFERENCE OF SEPTEMBER 19, 2000

MOTION: Cynthia Benning moved, seconded by Dan Luce, to approve the Minutes of the September 19, 2000 Telephone Conference as written. Motion carried unanimously.

SECRETARY CUMMINGS

Secretary Cummings was not available.

PRESENTATION OF PROPOSED STIPULATIONS

DOUGLAS K STUCKY, RPH

Attorney Arthur Thexton presented a proposed stipulation in the matter regarding Douglas Stucky, R.Ph. This matter will be deliberated on in closed session.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

These reports were informational. William Black updated the Board on the status of their rules.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to withdraw the collaborative practice rule from the rule making process. Motion carried unanimously.

To accommodate pharmacists who will be attending the national convention in December, the public hearing for the technician ratio rule will be held in January. The public hearing for the transfer rule will be held in December.

SUPPORT DELINQUENCY PROGRAM

Patrick Braatz explained the Support Delinquency Program to the Board. This becomes effective November 1, 2000.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to authorize the bureau director, or, in his or her absence, the division director, or, in his or her absence, the deputy secretary, to sign notices sent to individuals who have been certified to DRL by DWD as being delinquent in support or non-compliant with subpoenas or warrants. Motion carried unanimously.

CORRESPONDENCE FROM MEDICAL EXAMINING BOARD RELATING TO DELEGATION TO PHARMACISTS BY PHYSICIANS

Chair John Bohlman appointed himself, Cynthia Benning and Sue Sutter to a committee to review this statute change and discuss if this is in the best public interest. The committee will bring back its recommendations to the full Board.

DISTRIBUTOR'S/MANUFACTURER'S APPLICATIONS

MOTION: Cynthia Benning moved, seconded by Dan Luce, to approve the Distributor's/Manufacturer's licenses for **Biotech Distributors, WA; Compass, NJ; Express Scripts Specialty Distribution Services, Inc., MO; Gilead Sciences, Inc., CA; Walgreen's Health Initiatives, Eau Claire and USF Processors, TX.** Motion carried unanimously.

VARIANCE REQUESTS

ONEIDA COMMUNITY HEALTH CENTER

Dr. Ali Marden appeared for the Oneida Community Health Center to explain their need for a variance for Seymour Drugs. The Board stated the contractual agreement between the Oneida Community Health Center and Seymour Drugs must address both liability and stock usage, and should specify the responsibilities of each pharmacy. William Black will send a letter to Dr. Marden delineating the Boards areas of concern that need to be addressed in order to consider a variance.

NCS HEALTHCARE OF WISCONSIN, LACROSSE AND NCS HEALTHCARE OF WISCONSIN, WAUKESHA

MOTION: Sue Sutter moved, seconded by Dan Luce, to grant a variance to the delivery rule to any pharmacy providing medications to patients in a county Community Options Program (COP), that the medications may be delivered to the physical location of the COP instead of the patient's home address. Motion carried unanimously.

SAMARITAN HEALTH CENTER, WEST BEND

More information is needed on Samaritan's policies and procedures, the use of the area and the traffic pattern before the Board can consider this request.

REVIEW WAIVERS GRANTED BY BQA AND THE FACILITY PROCEDURES FOR COVENANT PHARMACY

The Board reviewed this information. No Board action was necessary.

ST MARY'S HOSPITAL PHARMACY, SUPERIOR, WI

The Board noted the information from St. Mary's Hospital Pharmacy, Superior. Information on automated dispensing systems will be put into historical events on the Department's database.

GUIDE TO ACHIEVING BALANCE IN FEDERAL AND STATE PAIN POLICY

This item was informational.

PHARMACY INSPECTIONS/SELF INSPECTIONS

Janie Brischke, Stu Engerman and Mike Berndt, DOE, addressed the Board. Secretary Cummings has proposed that self-inspections continue, but that only a percentage of new pharmacies be inspected. This was prompted by the legislative guidelines that have been established for the handling of complaints received by DOE, therefore taking more staff time to meet these guidelines. The Pharmacy Board might consider this request, but would like to see more comprehensive inspections.

FOLLOW-UP ON LICENSEES WHO WERE FORMERLY DISCIPLINED

The Board had requested DOE to do random visits to licensees who had former disciplinary actions taken against them to ensure they are practicing within acceptable parameters. Stu Engerman informed the Board that this provision will be written into new orders.

REPORT OF PHARMACY INTERNSHIP BOARD

There was no report.

REPORT OF CONTROLLED SUBSTANCES BOARD (CSB)

Cynthia Benning reported that GBL is now a List 1 chemical federally and a Schedule I in Wisconsin. GBL is used by many printing companies, food processing plants and other legitimate business. GBL users must now request a SUA, and the CSB is exploring changing the GBL legislation to allow industrial use of GBL.

A protocol has been developed for wildlife rehabilitators who request a SUA. The protocol has been forwarded to DNR.

CORRESPONDENCE FROM LUTHER HOSPITAL PHARMACY

The Board reviewed correspondence from Luther Hospital Pharmacy regarding their plan to assume pharmacy responsibilities to Bloomer Hospital. Luther Hospital Pharmacy must write a specific variance request that must be approved prior to providing services to Bloomer Hospital. After the variance request has been submitted, a representative from Luther Hospital Pharmacy may want to appear before the board for further explanation and details.

CORRESPONDENCE FROM WAL-MART PHARMACY DIVISION

The Board reviewed correspondence from Wal-Mart Pharmacy Division. If the system described is a common central file, then it is permissible in Wisconsin.

RECESS TO CLOSED SESSION

MOTION: Dan Luce moved, seconded by Sue Sutter, to recess to closed session pursuant to Chapter 19.85(1)(a), (b), (f) and (g), Wis. Stats., for the purpose of deliberation of a proposed stipulation, personal appearances of Roger Iverson, Craig Moon and John Schmitt regarding requests for three-month stays of suspensions and modifications to board orders, a personal appearance of Michael Nechy to request the reinstatement of his license, considering requests for three month stays of suspension and modifications in board orders, reviewing case status reports, discussion of exam issues and consulting with legal counsel. Roll call vote: John Bohlman – yes, Charlotte Rasmussen – yes, Sue Sutter – yes, Michael Bettiga – yes, Dan Luce- yes, Cynthia Benning – yes. Motion carried unanimously.

Open session recessed at 12:54 p.m.

RECONVENE IN OPEN SESSION

MOTION: Charlotte Rasmussen moved, seconded by Dan Luce, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 4:23 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

PROPOSED STIPULATION

DOUGLAS K STUCKY, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Douglas Stucky, R.Ph. Dan Luce abstained. Motion carried.

REQUESTS FOR STAYS OF SUSPENSIONS

ROGER IVERSON, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to deny the request for a three-month stay of suspension to Roger Iverson, R.Ph. Mr. Iverson must make arrangements for group counseling with his new counselor before he moves and the counselor must contact the DOE monitor when these arrangements have been made. Both Mr. Iverson and his counselor must understand that 8 random urine screens must be done monthly. The five-year timetable will restart for Mr. Iverson. When all required information is received and is acceptable, the Board liaison Dan Luce is authorized to approve the stay. Motion carried unanimously.

GREGORY J KUJAWA, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension and an eight hour increase as pharmacist in for a total of 32 hours per week to Gregory J. Kujawa, R.Ph. Motion carried unanimously.

JOHN R LITZENBERG, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension to John R. Litzenberg, R.Ph. Dan Luce abstained. Motion carried.

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to deny the request for the elimination of the controlled substance audits for John R. Litzenberg, R.Ph. Dan Luce abstained. Motion carried.

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to grant a four-hour increase as pharmacist in charge for a total of 16 hours per week to John R. Litzenberg, R.Ph. Mr. Litzenberg cannot open and close on the same day or back to back. Dan Luce abstained. Motion carried.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant the request for the discontinuance of group support meetings to John R. Litzenberg, R.Ph. Dan Luce abstained. Motion carried.

CRAIG MOON, RPH

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to grant a one-month stay of suspension to Craig Moon, R.Ph. Mr. Moon must have eight random, witnessed urine screens every month at PRN or a location submitted in advance to the DOE monitor for the approval of the Board Chair, and Mr. Moon is not to have custody of the donation. DOE's motion to terminate the stay is denied as moot. Dan Luce was absent during deliberation and abstained from voting. Motion carried.

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to deny the modifications to the Order for Craig Moon, R.Ph. Dan Luce was absent during deliberation and abstained from voting. Motion carried.

JOHN SCHMITT, RPH

MOTION: Cynthia Benning moved, seconded by Dan Luce, to grant a one-month stay of suspension to John Schmitt, R.Ph. Mr. Schmitt must get information from his physician along with a copy of the physician's notes regarding Mr. Schmitt's vicodin prescription. Mr. Schmitt must have eight random screens every month. Michael Bettiga abstained. Motion carried.

CHARLENE WILLIS, RPH

Action was deferred until Ms. Willis appears before the board. She will be requested to appear at the next Board meeting.

REQUEST FOR RE-REGISTRATION

MICHAEL NECHY

Michael Nechy appeared before the board. Mr. Nechy must complete and submit an application for re-registration.

CASE STATUS REPORT

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to close complaint **00 PHM 049** administratively. Motion carried unanimously.

INFORMATIONAL ITEMS

The informational items were noted.

ADJOURNMENT

MOTION: Charlotte Rasmussen moved, seconded by Dan Luce, to adjourn the meeting. Motion carried unanimously

The meeting adjourned at 4:32 p.m.

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